

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Parts 1 and 17 of the)	RM No. 11688
Commission's Rules Regarding Public Notice)	
Procedures for Processing Antenna Structure)	
Registration Applications for Certain Temporary)	
Towers)	

COMMENTS OF PCIA—THE WIRELESS INFRASTRUCTURE ASSOCIATION

I. Introduction

PCIA—The Wireless Infrastructure Association¹ submits these comments in response to the above-captioned Public Notice seeking comment on CTIA—The Wireless Association's Petition for Expedited Rulemaking.² The Petition and the request for blanket waivers will serve the public interest by allowing wireless providers to swiftly deploy temporary towers that (i) will be in use for 60 days or less, (ii) require the filing of a Form 7460-1 with the Federal Aviation Administration ("FAA"), (iii) do not require marking or lighting pursuant to FAA regulations, and (iv) will be less than 200 feet. In addition to the public interest benefits, the exemption will not significantly impact the environment, migratory birds, or air safety. PCIA urges the FCC to grant the petition and the waiver request.

¹ PCIA is the national trade association representing the wireless infrastructure industry. PCIA's members develop, own, manage, and operate towers, rooftop wireless sites, and other facilities for the provision of all types of wireless, telecommunications, and broadcasting services. PCIA and its members partner with communities across the nation to effect solutions for wireless infrastructure deployment that are responsive to the unique sensitivities and concerns of each community.

² *In re* Amendment of Parts 1 and 17 of the Commission's Rules Regarding Public Notice Procedures for Processing Antenna Structure Registration Applications for Certain Temporary Towers, *Petition for Expedited Rulemaking*, RM No. 11688 (filed Dec. 21, 2012) ("Petition").

II. Exempting Temporary Towers from ASR Public Notice Requirements Will Benefit the Public Interest Without Significant Impact on the Environment or Air Safety

A. The Exemption Will Allow Wireless Providers to Supplement Coverage and Capacity Thereby Serving the Public Interest

The Commission should adopt the rules outlined in the Petition because they will allow wireless providers to address non-emergency situations where the capacity of the permanent wireless network could prove inadequate without incorporating temporary towers, such as Cells on Wheels (“COWs”) or Cells on Light Trucks (“COLTs”). Such rules will benefit consumers, public safety, and the overall public interest.

As the Petition notes, events that may necessitate supplemental capacity or coverage can arise with little or no notice.³ Such events can vary from sporting events, to political gatherings, to other spontaneous events of national interest and importance. PCIA members report several instances where a spike in demand during such events was anticipated, but circumstances did not provide for sufficient advance notice to undertake the Antenna Structure Registration (“ASR”) system’s public notice process. In the last half of 2012, several temporary tower deployments were impacted, including:

- August, 2012 – a wireless provider cancelled deployment of a temporary tower at an airshow during Seafair, a Seattle, WA summer festival attended by approximately 130,000 spectators, due to the public notice period extending past the date of the event;
- September, 2012 – four Oregon State University football games, which average 44,000 attendees, went without needed supplemental capacity because a COLT was not approved in time;
- September, 2012 – a wireless provider was unable to deploy a COLT to supplement capacity during three University of Hawaii football games, which averaged 30,000 attendees per game;

³ Petition at 4-7.

- September, 2012 – a wireless provider was unable to deploy a COW to supplement capacity during a race at the Atlanta Motor Speedway attended by approximately 100,000 people due to the national public notice period extending past the date of the race.

Often, state, local and federal officials request wireless providers to address foreseeable spikes in network usage resulting from these events.⁴ Since CTIA filed its Petition, several illustrative examples have occurred. First, President Barack Obama's second Inauguration saw tens of thousands flock to the National Mall.⁵ In coordination with the Joint Congressional Committee on Inaugural Ceremonies, wireless providers deployed temporary towers to ensure consumers and public safety first responders had seamless access to voice and data services during the event.⁶ Second, only two days after the National Football League's Baltimore Ravens won the Super Bowl in New Orleans, Louisiana, the City of Baltimore, Maryland hosted an estimated 200,000 people at City Hall and along a roughly one-mile parade route to M&T Bank Stadium.⁷ These examples, in addition to those outlined in the Petition and those that frequently and continuously arise,⁸ illustrate the need for timely deployment of temporary towers to address capacity issues in non-emergency situations.

Neutral host providers also own and deploy temporary towers. These towers are generally used in non-emergency, tower maintenance scenarios when taking a site off-line could lead to

⁴ Petition at 5.

⁵ Byron Tau, *Crowd Shrinks by Nearly Half for 2nd Inaugural*, POLITICO (Jan. 21, 2013), <http://www.politico.com/politico44/2013/01/official-at-least-a-million-on-the-mall-154825.html>.

⁶ Press Release, Sprint Prepares Its Network for 2013 Presidential Inauguration, Sprint (Jan. 10, 2013), http://newsroom.sprint.com/article_display.cfm?article_id=2492; Michael E. Ruane, *For Obama Inauguration, Cell Towers Added on Mall to Handle Wireless Gadgets*, WASHINGTON POST (Jan. 4, 2013), http://articles.washingtonpost.com/2013-01-04/national/36209181_1_cell-towers-inaugural-ceremonies-cellphones.

⁷ *Incredible Turnout & Spirit for Ravens Victory Parade*, CBS BALTIMORE (Feb. 5, 2013), <http://baltimore.cbslocal.com/2013/02/05/great-day-for-a-parade-live-coverage-starts-on-wjz-cbsbaltimore-com-at-1030-a-m/>.

⁸ Petition at 4-6.

significant gaps in coverage, reduced capacity and overall service degradation. As with the events described above, these maintenance issues can arise without notice and could necessitate the use of a temporary tower.

Furthermore, any impact on service capacity and coverage could have significant repercussions for public safety. Many public safety entities rely on commercial networks for their mission-critical communications. With 70 percent of 911 calls placed from wireless phones,⁹ the general public's access to public safety and first responder services would also be negatively affected if temporary facilities could not be deployed.

With more facets of our daily lives being integrated into our wireless devices through innovative applications and services, consumers have high expectations for access to wireless services. Wireless providers work proactively to ensure those expectations are met, often through supplemental, temporary facilities of all kinds.¹⁰ Under the current ASR notice requirements wireless providers may not be able to receive timely approval to deploy much needed temporary towers. As the Petition notes, the ASR notification process can take “at least 60 days” to complete.¹¹

B. The Exemption Will Not Significantly Impact the Environment and Air Safety

The Petition is narrowly tailored to ensure that exempted temporary towers will not negatively impact the environment, migratory birds, or air safety. As the Commission found in

⁹ FCC, *Guide: 911 Wireless Services* (May 26, 2011), <http://www.fcc.gov/guides/wireless-911-services>.

¹⁰ See Kevin Fitchard, *Want to See the Future of Mobile Coverage? Go to a Baseball Game*, GIGAOM (July 6, 2012, 12:01 PM), <http://gigaom.com/2012/07/06/want-to-see-the-future-of-mobile-coverage-go-to-a-baseball-game/> (“Concerts and sporting events will always push the limits of the mobile network, but what’s telling here is that Verizon is already deploying 4G COWs and COLTs at these events.”). In addition to temporary facilities that require tall infrastructure, wireless providers also deploy facilities to address temporary spikes in usage in indoor locations. See Martha DeGrasse, *First-Ever DAS on Wheels Debuts at DNC*, RCRWIRELESS (Sept. 6, 2012), <http://www.rcrwireless.com/article/20120906/das/first-ever-das-wheels-debuts-dnc/>.

¹¹ Petition at 7.

its Programmatic Environmental Assessment of the ASR Program (“PEA”), and as the Petition notes, the environmental impact on migratory birds is correlated to the height of the tower, whether the tower utilizes steady-burning lights, and the length of time a tower is operational.¹² The Petition’s exemption is well-crafted to mitigate the “primary tower characteristics contributing to avian mortality”¹³ by excluding temporary towers that (i) will be in use for over 60 days, (ii) will require marking or lighting pursuant to FAA regulations, and (iii) will be over 200 feet. The exemption aligns with the Commission’s balanced goal “to minimize the impact of communications towers on migratory birds while preserving the ability of communications providers rapidly to offer innovative and valuable services to the public.”¹⁴ Furthermore, the proposed exemption will not unravel tower owners’ NEPA compliance requirements for new towers and permanent structures.

This is not the first time that the Commission has seen fit to exempt temporary towers from regulatory compliance. Recognizing that “temporary facilities are often used in response to exigent circumstances where it is important that they be erected quickly,” the Commission and the signatories of the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission agreed that these towers will have a minimal impact on sensitive historic properties, districts, and archeological resources and exempted them from section 106 review for up to 24 months.¹⁵

¹² FCC, FINAL PROGRAMMATIC ENVIRONMENTAL ASSESSMENT FOR THE ANTENNA STRUCTURE REGISTRATION PROGRAM, at ES-9, 5-4 (Mar. 13, 2012) (“PEA”), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-312921A1.pdf; Petition at 10.

¹³ PEA at ES-9, 7-7.

¹⁴ *In re* National Environmental Policy Act Compliance for Proposed Tower Structures; Effects of Communications Towers On Migratory Birds, *Order on Remand*, 26 FCC Rcd 16700, ¶ 1 (rel. Dec. 9, 2011).

¹⁵ *In re* Nationwide Programmatic Agreement regarding the Section 106 National Historic Preservation Act Review Process, *Report and Order*, 20 FCC Rcd 1073, ¶ 47 (rel. Oct. 5, 2004).

The requested 60 days is one-twelfth the time afforded to temporary towers under the NPA, and highlights the minimal amount of time that these exempted towers will be deployed.

Air safety will also remain unaffected by the proposed temporary tower exemption. The process by which a tower owner would receive a determination of no hazard would still be in place. Exempted towers would still be required to file FCC form 854 and FAA form 7460-1, when applicable, providing clear notice to both agencies of the status of the temporary tower.

III. The Commission Should Issue a Blanket Wavier of the Public Notice Requirement

PCIA supports the blanket waiver of the public notice requirement for the category of temporary towers meeting the requirements outlined above during the pendency of this rulemaking proceeding.¹⁶ A blanket waiver for this well-defined class of temporary towers will benefit the public interest. Many events similar to those described above are likely to take place during the pendency of a rulemaking.¹⁷ However, like those events, a wireless provider may be effectively prohibited from deploying temporary facilities. Therefore, the petition satisfies the requirements of sections 1.3 and 1.925 of the Commission's rules, and the Commission should grant the waiver.

¹⁶ Petition at 11-12.

¹⁷ *See supra* Section II.A.

IV. Conclusion

For the foregoing reasons, PCIA supports the Petition to exempt certain temporary towers from the public notice requirement of the FCC's ASR rules and urges expeditious action to waive the requirement during the pendency of the rulemaking.

Respectfully submitted,

PCIA—THE WIRELESS INFRASTRUCTURE ASSOCIATION

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